



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/797,978

03/10/2004

David Clarence Hager

05-902-J

5004

63572

7590

03/17/2008

MCDONNELL BOEHNEN HULBERT @ BERGHOFF LLP  
300 SOUTH WACKER DRIVE  
SUITE 3100  
CHICAGO, IL 60606

EXAMINER

GORDON, BRIAN R

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/797,978	HAGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian R. Gordon	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 12-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 8, 10-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed January 30, 2008 have been fully considered but they are not persuasive.

Applicant did not amend claims 2-3, those claims are directed to further limiting the multi-well block and the guide plate, respectively. As previously stated neither is claimed in combination with the seal plate or as elements of the seal plate. The multi-well block and guide plate are separate devices that are intended to be used in conjunction with the seal plate. Further limiting those unclaimed elements do not translate into further structural elements of the seal plate.

Applicant asserts the instant application has an effective priority date of US Provisional Application No. 60/274,262. There is no claim for such priority in the Oath/Declaration. Furthermore applicant has failed to show where the invention as claimed is fully supported in the provisional application to be granted such priority. In view of such the references relied upon are considered proper prior art.

As to Roberts, applicant asserts the comparable seal plate of Roberts does not disclose wells including perforable bottoms. The examiner respectfully disagrees. The duckbill valve of 116 is clearly structurally capable of being perforated/penetrated by a needle, pipette tip, or any other object subjected to the proper force applied thereto (see figures 3-5). There is no structure that would prevent such perforation therethrough for fluid is allowed to pass through the valve as indicated by arrow 118 (paragraph 0028).

As to Berray applicant asserts, the sealing elements of the reference do not include wells. The examiner respectfully disagrees. As clearly seen in Figures 4 and 5, the mat 22 includes indentions or cavities that one may reference as wells.

In view of applicant's amendment the previous rejections under Baum and Shanler have been withdrawn and the rejections under Roberts and Berray are hereby maintained.

### ***Claim Objections***

2. Claims 2-3 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims are not further limiting because the multi-well block and guide plate are not elements of the seal plate. Claim 1 is directed to a seal plate. The multi-well block and guide plate are not positively claimed as elements of the seal plate, but are mentioned in the narrative form as describing how they both are intended to be used with the claimed seal plate. Claims 2-3 are directed to the multi-well block and guide plate, respectively. As such those claims are not further limiting. The seal plate can be used with any plate or containers one chooses.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-3, 5, 7-8, and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts et al. US 20030143124.

Roberts et al. disclose a well plate seal that includes a matt heading a plurality spaced apart wells (that form protrusions on one surface) for engaging and sealing a plurality of exit ports in a multi -well filtration/extraction plate (abstract).

5. Claims 1-3, 5, 7-8, and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Berray et al. US 20020187077.

Berray et al. disclose a flexible elastomer closure plug mat presents a plurality of protruding hollow septa closure plugs depending from the mat's lower face. The mat and protruding closure plugs are preferably formed of silicone rubber, with a thick layer of polytetrafluoroethylene or Teflon durably bonded to the lower face of the mat and to the outer faces of all of the arrayed plurality of closure plugs. The arrayed plurality of closure plugs are dimensioned for telescoping insertion into the open tops of a corresponding plurality of sample vials held in a well plate, and for frictional engagement therein (abstract).+

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, 1st Fri. Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian R Gordon/

Application/Control Number: 10/797,978  
Art Unit: 1797

Page 6

Primary Examiner  
Art Unit 1797

brg